

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MEYUN DONNELL,

Plaintiff,

v.

ILLINOIS CENTRAL RAILROAD COMPANY,
EXCEL TRANSPORTATION SERVICE, LLC,
and ERICA MCELRATH,

Defendants.

Case No. 3:25-cv-00259-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the Plaintiff's motion to dismiss. (Doc. 3). The Plaintiff filed their motion to dismiss pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. FED. R. CIV. P. 41(a)(2). As the Plaintiff states in their motion the Plaintiff filed their complaint on February 26, 2025, but the complaint has not been served.

Under Rule 41(a)(1)(A)(i), Plaintiffs are permitted to voluntarily dismiss their case without a court order by filing a notice of dismissal before the opposing party serves an answer or motion for summary judgment. As the complaint has not been served, the Defendants are likely unaware of this action and certainly have not filed an answer or motion for summary judgment. However, the Plaintiff's motion invokes Rule 41(a)(2). Rule 41(a)(2) states "except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order." FED. R. CIV. P. 41(a)(2). While nothing prohibits the Plaintiff from seeking a Court-ordered voluntary dismissal, it is curious that the Plaintiff has invoked Rule 41(a)(2) rather than Rule 41(a)(1)(A)(i). Regardless, given the Plaintiff here would be entitled to voluntary dismissal

without leave of Court, nothing prohibits the Plaintiff from seeking Court-ordered voluntary dismissal, and the Court is unaware of any reason to deny dismissal, the Court will grant the dismissal.

Accordingly, being duly advised in the premises, having fully considered the issues and arguments raised, the Court hereby **GRANTS** the Plaintiff's motion, (Doc. 3), and **DISMISSES** this suit without prejudice.

IT IS SO ORDERED.
DATED: March 4, 2025

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE